

C.C.R.B CASE CLOSING FORM

Investigator assigned: M. Taylor		Team: 8	CCRB#: 9803317	<input type="checkbox"/> Force <input checked="" type="checkbox"/> Discourtesy <input checked="" type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input type="checkbox"/> Injury
Date of incident: 7/24/98	Time of incident: 11:21 AM	Location of incident: § 87(2)(b)	Pct. of occurrence: 103	Date S.O.L. Expires: 1/24/00
Date reported: 7/27/98	Time reported: 8:55 AM	To whom/where/how reported: § 87(2)(b) filed his complaint to CCRB by phone.		
Complainant: § 87(2)(b)		Home address: § 87(2)(b)		
Victim(s): § 87(2)(b)		Home address: same as above		
Witness(es): Unknown		Home address: N/A		
Subject officer(s) (include rank): Officer Jeffrey Schiff Officer John Beck		Shield: 20012 13660	Tax: 918548 918575	Command: 103 103
Witness officer(s) (include rank): Unknown		Shield: N/A	Tax: N/A	Command: N/A
Allegation(s) by letter: A) Discourtesy. Officer Schiff was discourteous when he stated, "I'm going to scare him," in violation of Patrol Guide procedure 104-01. B) Discourtesy. Officer Schiff was discourteous when he stated, "I do whatever I want and I decided you're getting a summons" in violation of Patrol Guide procedure 104-01. C) Discourtesy. Officer Schiff was discourteous when he asked, "Why the hell do you want to get my ID?" in violation of Patrol Guide procedure 104-01. D) Abuse of Authority. Officer Schiff abused his authority when he refused to provide his name and badge number to § 87(2)(b) in violation of Patrol Guide procedure 104-01. E) Abuse of Authority. Officer Beck abused his authority when he refused to provide his name and badge number to § 87(2)(b) in violation of Patrol Guide procedure 104-01.				Recommendation(s): § 87(2)(g)

ENCL.

1A

Summary of Complaint

In his CCRB interview, § 87(2)(b) stated that on July 24, 1998, at approximately 11:15 AM, he had just returned home from work when he went to the nearby corner store and bought a can of beer. Leaving the store, he opened the beverage and began to consume it on the street. Seconds later, he observed a marked police van parked approximately five feet away from him on the corner. Inside, two officers were staring at him; one of them, Officer Schiff, whose name § 87(2)(b) observed on the summons issued to him, called him over. As § 87(2)(b) got within ten feet of the van, he overheard Officer Schiff state to his partner (PO 2), "I'm going to scare him" (**Allegation A**).

After having reached the van, § 87(2)(b) stood approximately an arm length away from the half-open window on the passenger's side. Seated on this side of the car, Officer Schiff then informed him that he was going to issue him a summons for violating open container laws. § 87(2)(b) replied that it was not fair that he should get a summons; Officer Schiff then asked, "What's the matter with you, you're just getting a summons?" and stated rhetorically, "What difference does it make?" § 87(2)(b) replied, "Why is it necessary that I get a summons?" to which Officer Schiff answered it was "Guiliani policy." As § 87(2)(b) continued to protest, Officer Schiff got aggressive and stated, "I do whatever I want and I decided you're getting a summons...If you have a problem with it, go to court" (**Allegation B**).

Afterwards, § 87(2)(b) stated, "I don't like your attitude," after which Officer Schiff asked him if he had any identification. When § 87(2)(b) answered that it was at home in his duffel bag, Officer Schiff stated, "Right now, I could arrest you and run a report." Eventually, however, Officer Schiff verified § 87(2)(b) identification by running a computer check with the information that § 87(2)(b) verbally gave to him. § 87(2)(b) then said, "You have my ID, let me get your badge number so if I go to court," to which Officer Schiff replied, "Why the hell do you want to get my ID?" (**Allegation C**). He then rolled up the window; two minutes later, he lowered the window, handed the summons to § 87(2)(b) and stated, "If you want my ID, it's on the summons" (**Allegation D**). When § 87(2)(b) asked for PO 2's badge number, Officer Schiff stated that he was the only officer who has to appear in court. Simultaneously, PO 2 who was seated in the driver's seat turned his body away from § 87(2)(b) hiding his chest and stated, "13360" (**Allegation E**).

Results of Investigation

In his interview, § 87(2)(b) named one witness, § 87(2)(b) who lives in the basement of his house at § 87(2)(b). He stated that § 87(2)(b) saw the police officers approach him, but did not hear the verbal exchanges between the officers and him. In subsequent telephone conversations with this investigator, § 87(2)(b) explained that § 87(2)(b) does not have a phone and that he is not interested in "becoming involved" with this investigation (see Investigative Action, encl. 7).

Bell Atlantic information verified that there is no listing for a § 87(2)(b) at § 87(2)(b) Queens; the operator stated that there are more than ten § 87(2)(b) listed in Queens. Cole's Directory Queens, the Booking Arraignment Disposition System, and the DMV database have no listings for § 87(2)(b) at the above address (see Investigative Activities, encl. 7). On August 11, 1998, this investigator mailed a letter (encl. 8B) to § 87(2)(b) at the above address requesting him to contact CCRB; it was met with no response. On August 22, 1998, a subpoena (encl. 8C) was sent to the same address commanding § 87(2)(b) to appear at CCRB by September 8, 1998. Again, § 87(2)(b) made no action.

PO 2 is identified as Officer John Beck whom Officer Schiff named as his partner for July 24, 1998. In their interviews, both officers denied all of § 87(2)(b) allegations and essentially corroborated each other's account of the incident. Both stated that they were sitting in their van which was parked facing the corner bodega. When both observed § 87(2)(b) exit the store, Officer Beck was issuing another civilian a summons for an open container violation. Both stated that § 87(2)(b) first observed them sitting in their marked van and then proceeded to take a sip from the beer he had in his hands. Officer Schiff explained that the beverage was wrapped in a brown paper bag and that he could see the top of the can which was green like a Heineken beer can. It was at this point that Officer Schiff decided he would issue § 87(2)(b) a summons. Both officers explained in their interviews that Officer Schiff called out to § 87(2)(b) and told him to approach them, yet as both pointed out, § 87(2)(b) continued to walk away. Consequently, both of them exited their van and walked up to § 87(2)(b) to tell him that he was violating the open container law.

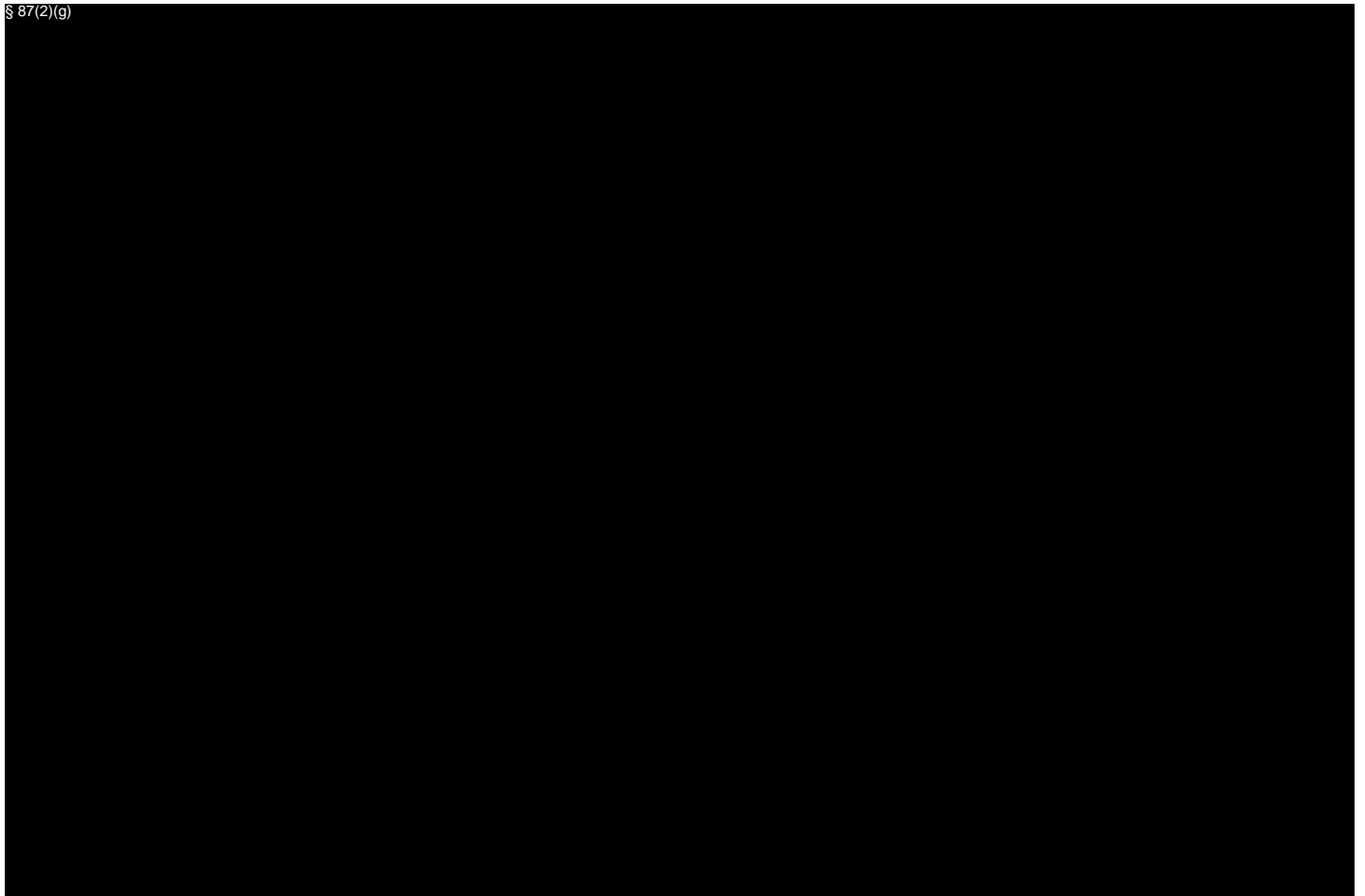
Officer Schiff explained that afterwards he told § 87(2)(b) to present his identification and warned him that if he did not comply, he would be arrested. § 87(2)(b) initial reaction was to say that he did not have to show the officers anything, yet when Officer Schiff reiterated that he was seen committing a violation and that as such he was required by law to give his name, date of birth, address and some sort of identification, § 87(2)(b) handed over his identification. § 87(2)(b) continued to protest by saying he ought to be allowed to drink in public and by commenting that he was tired from work. In the end, Officer Schiff issued him a summons without arresting him. Since § 87(2)(b) remained upset over the penalty, he demanded Officer Schiff to provide his name and shield number to which Officer Schiff complied and stated that his pedigree information was on the summons. Afterwards, § 87(2)(b) looked for a pen to write this; when no passerbys had a pen, § 87(2)(b) left the scene. Officer Schiff also explained that § 87(2)(b) never asked Officer Beck for his name or shield number.

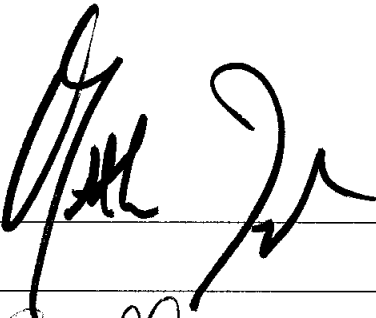
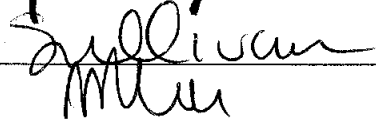
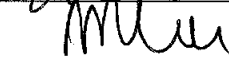
Officer Beck's testimony § 87(2)(g) made no mention of Officer Schiff's warning of an arrest, but stated that § 87(2)(b) asked, "Why do I have to come to the van," to which both officers explained the infraction. Subsequently, all returned to the van where Officer Beck continued writing the other civilian a summons and where Officer Schiff asked to see § 87(2)(b) identification. § 87(2)(g) Officer Beck explained that since § 87(2)(b) had no identification Officer Schiff verified his identity by consulting the mobile data terminal and by entering the information verbally provided by § 87(2)(b). Eventually, Officer Schiff issued § 87(2)(b) a summons after which he continued to protest and demanded to have both officers' names and badge numbers. Officer Beck testified that Officer Schiff was the first to respond by providing the information and by informing § 87(2)(b) that it was already written on the summons; meanwhile, Officer Beck subsequently said aloud both his name and shield number. In the end, § 87(2)(b) appeared satisfied and left the scene.

Both officers' memo book entries (see Officer Schiff's and Officer Beck's memo book entries; respectively, encl. 4A-B and 5A-C) regarding the incident record § 87(2)(b) anger. While Officer Schiff wrote "Def[endant] wanted names and shield [numbers]/ [he] was uncooperative and bel[ig]erant," Officer Beck recorded, "Def[endant] stated bel[ig]erently he wanted names and shield numbers for his lawyers."

Conclusions and Recommendations

§ 87(2)(g)



Investigator:		Date:	<u>10/14/98</u>
Supervisor:		Date:	
Reviewed by:		Date:	<u>10-14-98</u>
Reviewed by:		Date:	<u>10/14/98</u>